

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

JOSE NEGRETE,	:	
	:	
Petitioner,	:	Civ. No. 23-3457 (RK)
	:	
v.	:	
	:	
BRUCE DAVIS, et al.,	:	MEMORANDUM & ORDER
	:	
Respondents.	:	
	:	

Petitioner, Jose Negrete (“Petitioner” or “Negrete”), is a state prisoner proceeding *pro se* with a petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2254. *See* ECF No. 1. Respondents have filed a motion to dismiss the habeas petition due to Petitioner’s failure to exhaust state court remedies. *See* ECF No. 5. Subsequently, Petitioner filed a motion for stay and abeyance so that he can exhaust state court remedies. *See* ECF No. 6. In that motion, Petitioner states that he recently filed a petition for post-conviction relief in state court.

Respondents were ordered to inform the Court whether they oppose Petitioner’s motion for a stay and abeyance. *See* ECF No. 7. Respondents have not filed a response in opposition to Petitioner’s motion for a stay and abeyance. Considering Respondents’ lack of opposition and Petitioner’s current pursuit of state court remedies via his state post-conviction relief petition, Petitioner’s motion for stay and abeyance will be granted. Respondents’ motion to dismiss for lack of exhaustion of state court remedies shall be administratively terminated considering this stay subject to reinstatement by Respondents for analysis after the stay is lifted should Respondents elect to seek such reinstatement of their motion.

Accordingly, IT IS on this 1 day of February, 2024,

ORDERED that Petitioner's motion for a stay and abeyance (ECF 6) is granted; the Clerk shall mark this case as stayed and shall administratively terminate this case for case management purposes only; and it is further

ORDERED that the Clerk shall administratively terminate Respondents' motion to dismiss due to lack of exhaustion, ECF No. 5, subject to reinstatement for analysis by the Court upon notice from Respondents within thirty (30) days upon the lifting of the stay; and it is further

ORDERED that Petitioner may seek to lift the stay and the administrative termination of this matter within thirty (30) days from when his proceedings related to his post-conviction relief petition are concluded; and it is further

ORDERED that the Clerk shall serve this memorandum and order on Petitioner by regular U.S. mail.



ROBERT KIRSCH
United States District Judge